Ecom. II-27—45,000—31-10-27

Law 1811 (1928) Department.

III SERIES.

G.O. No. 1746

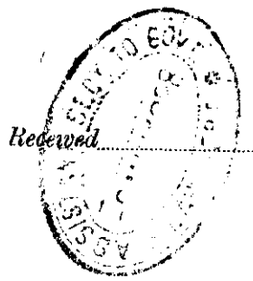
DATED 16-5-1928

[Despatch Abstract.]

Criminal Appeal - Appeal against acquittal - S.Case No. 48/27 on the file of the Sessions Judge, South Kanara - declined.

C.F. 30—10,000—7-8-26.

JUDICIAL **DEPARTMENT.**



Received ..... 192 Registered Lo 24928 8.5 1928

Subject.

Appeal against acquittal - S.C.No. 48/27 - South Kanara - Forwarding opinion.

ENCLOSURES.

No. .....

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Spare copies .....

Opinion No. 56 of 1928.

Station Madras, *Dated the* 7th May 1928.

From (Name) L. H. Bewes Esquire,

(Designation) Public Prosecutor.

To The Secretary to the Government of Madras,

Law (General) Department.

Sir,

I have the honour to forward herewith a copy of the judgment in S.C.No. 48 of 1927 on the file of the Sessions Judge, South Kanara, ~~together with a copy of the letter received from the High Court~~. The Honourable Mr. Justice Odgers has made the following note on perusal of calendar.

> "I do not feel quite satisfied about this case. Show to P.P. and ask him if on a perusal of the records government intends to appeal."

2. The only evidence to connect the accused with the murder is the testimony of P.W.3 and the recovery

of M.O.1. According to P.W.3, he was roused from sleep by accused 4 saying he was wanted by accused 1 and went to the foot of a mangoe tree, where he met accused 2 and 3 and 2 others. Accused 4 them fetched accused 1. She took them to a cocoanut tree near the house of the deceased. Accused 3 and P.W.3 were asked to remain there and the rest went to the house of the deceased. Shortly afterwards P.W.3 heard a groan from the house of the deceased, and saw accused 1 coming out with a bundle. P.W.3 accompanied accused 1 as far as her house and left her there. This is all the direct evidence. P.W.3 does not seem to be a man of good character, it was only 3 months after the murder that he told this story, though the Police had seen him many times.

3. As regards the possession of M.O.1 and its production the evidence of P.W.9, 14, and 15 corroborated by P.W.17 establishes the fact that accused 1 was in possession of it. Her explanation of it is that it fell down from the loft of the deceased and she handed it over to P.W.14 the wife of the person who is the reversioner of the deceased. This explanation is disbelieved by the learned Sessions Judge, who believes the evidence of P.Ws. 14 and 15 and finds that the accused had it in her house and later on put it in the loft of the deceased but he says that this cannot fix the guilt of murder on the accused, as it is likely that who ever committed the murder might have given it to her and at the most she knew of the

murder. As regards the evidence of P.W.3 it reads untrue. There is no necessity for his being roused from sleep and taken to stand under a cocoanut tree and then accompany accused 1 to her house. She had 4 others who it is alleged actually committed the murder and his presence is absolutely superfluous, unless it be that the accused wanted to advertise the crime and his is the only direct evidence in the case against all the accused. In these circumstances I do not think the High Court is likely to interfere and I am of opinion that an appeal against the acquittal is not likely to be successful.

I have the honour to be,

Sir,

Your most obedient servant,

L. H. Bevis.

Public Prosecutor.

Law (Jud.) Dept

G.O. No: 2492 B. From the Public Prosecutor, Madras., No: 56/28 dt. 7.5.28

Appeal against acquittal - S.C. No: 48/27 - Sessions - South Kanara.

U.S.

The three months appeal time expires on 1-6-28. The Public Prosecutor is of opinion that an appeal against the acquittal is not likely to be successful. It is presumed that the Advocate General need not be consulted. A draft order declining to appeal is subd.

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12-5-28

GOVERNMENT OF MADRAS

9/5/15

Law Dept. (Genl.) I-4—100—10-11-26.

Received ..... 192 *Registered* 192

Criminal Appeal – **Appeal against acquittal—~~Negatived.~~**

S. Case No. 48/27 on the file of the Sessions Judge, South Kanara – declined.

LAW (GENERAL) DEPARTMENT.

READ—the following papers:—

From the District Magistrate, , No. , dated 192 .

Endorsement to the Public Prosecutor, Madras, No. , dated 192 .

From the Public Prosecutor, Madras, No. 56/28, dated 7. 5 1928.

ORDER—Mis. No. 746, **dated** 16/5/1928

The Government do not consider it advisable to appeal to the High Court against the judgment of the Sessions Judge, South Kanara acquitting the accused in S. C. No. 48 of 1927 on his file.

10.5.28

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5.5.28

(~~True Extract.~~)

10.5.28

Secretary to Government.

To

The District Magistrate, South Kanara. (2 c.)

The Public Prosecutor, Madras. (with judgment) 18

11.5.28